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PATENT

APPEAL BRIEF

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : EDWARDS, ERIC  
Serial No. : 10/771,902  
Filed : 02/04/2004  
For : METHODS AND APPARATUSES FOR IDENTIFYING  
OPPORTUNITIES TO CAPTURE CONTENT  
Group No. : 2131  
Examiner : ABRISHAMKAR, K.  
Docket No. : SONY-06000 (SON5180.85A) (50T5528.01)  
Cust. No. : 36813

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John P. O'Banion  
(name)  
(signature)  
(date) 5/30/07

AMENDED APPEAL BRIEF

Dear Sir:

The following amended appeal brief is respectfully submitted pursuant to the Notification of Non-Compliant Appeal Brief mailed on 05/25/2007.

REAL PARTY IN INTEREST

The real party in interest is: "Sony Corporation", 7-35 Kitashinagawa 6-chome Shinagawa-ku, Tokyo, Japan; and "Sony Electronics Inc." 1 Sony Drive, Park Ridge, NJ 07656.

RELATED APPEALS AND INTERFERENCES

There are no related Appeals and Interferences at this time.

STATUS OF CLAIMS

Claims 1-6, 8 and 10-30 are pending, with Claims 7 and 9 previously canceled.

All pending claims (1-6, 8 and 10-30) currently stand rejected. Applicant has not amended or canceled any of these claims within the present appeal.

All pending claims (1-6, 8 and 10-30) are being appealed.

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#### Summary of Office Actions to Date

This application was filed on 02/04/2004 as serial number 10/771,902 containing twenty eight (28) claims (Claims 1-28), including five (5) independent claims (Claims 1, 10, 11, 21, and 28).

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In an Office Action dated 05/19/2005, Claims 1-32 and 39-48 were rejected, as being anticipated by a publication to Whitham (US Publ. No. 2003/0009281).

Claims 7 and 9 were canceled, Claims 1-4, 6-16, 18-19, 21 and 28 were amended, and Claims 29-30 were added by the Applicant in its response dated 08/19/2005.

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In a Final Office Action dated 11/02/2005, Claims 1-6, 8 and 10-30 were rejected by the Examiner in a Final Office Action dated 06/07/2006, based on Baron and combinations of Baron, Wall and Hunter.

Claims 1, 10-11, 21, 28 and 29 were amended by the Applicant in its continuation-application 12/30/2005.

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In an Office Action dated 05/11/2006, Claims 1-6, 8 and 10-30 were rejected based on Baron and combinations of Baron, Wall and Hunter.

Claims 1, 2, 10-11, 21 and 28 were amended by the Applicant in its response dated 08/11/2006.

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A telephonic interview was held 08/11/2006 discussing how to advance the case, no decisions were reached.

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In a Final Office Action dated 10/30/2006, Claims 1-6, 8 and 10-30 were rejected based on Baron and combinations of Baron, Wall and Hunter.

Applicant filed a Notice of Appeal on 01/19/2006, which was received in OIPE on

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01/22/2007.

### **STATUS OF AMENDMENTS**

The claims now pending have not been modified subsequent to final rejection.

### **SUMMARY OF CLAIMED SUBJECT MATTER**

Referring to the specification and drawings, the invention is defined in the claims involved in the appeal as a system for augmenting a digital material object with an MPEG-7 content description.

Claim 1. Independent Claim 1 is directed to a method of identifying photographic opportunities. The elements of Claim 1 are supported by the specification, drawings and original claims as follows.

Support for *"maintaining a user profile describing the photographic interests of a user as content types selected from a number of content type categories within which the user has expressed interest"* and *"wherein said content type specifies the category, or kind, of photo opportunity in which the user is interested"* is found in the drawings shown as block 530 in Figure 5; and found throughout the specification, including page 6, lines 1-6; page 8, lines 10-23; page 13, lines 3-10; page 14, lines 16-19; page 15, lines 10-20; and so forth, as well as original Claims 2, 7, 9 and 21.

Support for *"determining a geographic location of a device"* is found in the drawings shown as location module 320 in Figure 3; block 540 in Figure 5; block 610 in Figure 6; block 720 in Figure 7 and found throughout the specification, including page 2, lines 5-6; page 5, lines 17-23; page 6, lines 1-5; page 9, lines 9-16; and so forth, as well as original claims 1, 10, 11 and 21.

Support for *"identifying a plurality of suggestions from a photo opportunity database based on the geographic location of the device and matching of photographic interests as given by said content types within said user profile with the content type of the photo opportunity, wherein each suggestion indicates a unique photo opportunity"* is found in the drawings shown as element 620 in Figure 6; and found throughout the specification, including page 14, lines 1-15; page 19, lines 1-8; and so forth, as well as

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original Claims 2 and 5.

Support for *"transmitting the plurality of photo opportunity suggestions to the device"* is found in the drawings shown as element 550 in Figure 5; and found throughout the specification, including page 6, lines 1-9; page 11, lines 8-10; and so forth, as well as original Claims 1, 10 and 11.

Support for *"receiving a user selection from the device chosen from the plurality of suggestions"* is found in the drawings shown as element 640 in Figure 6; and found throughout the specification, including page 6, lines 7-10; page 10, lines 6-9; and so forth, as well as original Claims 22 and 28.

Support for *"transmitting additional information to the user regarding the selected photo opportunity to the device"* is found in the drawings shown as element 650, 660 in Figure 6; and found throughout the specification, including page 6, lines 7-13; page 11, lines 5-14; page 16, lines 1-6; and so forth, as well as original Claim 23-26 and 28.

Claim 10. Independent Claim 10 is directed to a system of identifying photographic opportunities. The elements of Claim 10 are supported by the specification, drawings and original claims as follows.

Support for *"means for sensing a user profile describing the photographic interests of a user as content types, classified under a number of content type categories, in which the user has expressed interest;"* and *"wherein said content type specifies the category, or kind, of photo opportunity in which the user is interested"* is found in the drawings shown as block 530 in Figure 5; and found throughout the specification, including page 6, lines 1-6; page 8, lines 10-23; page 13, lines 3-10; page 14, lines 16-19; page 15, lines 10-20; and so forth, as well as original Claims 2, 7, 9 and 21.

Support for *"means for determining a geographic location of a device"* is found in the drawings shown as location module 320 in Figure 3; block 540 in Figure 5; block 610 in Figure 6; block 720 in Figure 7 and found throughout the specification, including page 2, lines 5-6; page 5, lines 17-23; page 6, lines 1-5; page 9, lines 9-16; and so

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forth, as well as original Claims 1, 10, 11 and 21.

Support for *"means for transmitting a desired number of suggestions, incorporating at least one suggestion, within a listing generated in response to dynamically varying the radius of geographic limits to the device based on the geographic location of the device and matching of the content type for prospective photo opportunities with the content types within said user profile expressing user interests, wherein the suggestion indicates a photo opportunity"* is found in the drawings shown as element 550 in Figure 5; element 620 in Figure 6; and found throughout the specification, including page 6, lines 1-9; page 11, lines 8-10; page 14, lines 1-15; page 19, lines 1-8; page 14, lines 3-9; and so forth, as well as original Claims 2, 5 and 6-8.

Claim 11. Independent Claim 11 is directed to a method, and contains elements supported by the specification, drawings and original claims as follows.

Support for *"sensing a user profile containing user content type selections classified under a number of content type categories describing the photographic interests of a user" and "wherein said content type specifies the category, or kind, of photo opportunity in which the user is interested"* is found in the drawings shown as block 530 in Figure 5; and found throughout the specification, including page 6, lines 1-6; page 8, lines 10-23; page 13, lines 3-10; page 14, lines 16-19; page 15, lines 10-20; and so forth, as well as original Claims 2, 7, 9 and 21.

Support for *"determining a geographic location of a device"* is found in the drawings shown as location module 320 in Figure 3; block 540 in Figure 5; block 610 in Figure 6; block 720 in Figure 7 and found throughout the specification, including page 2, lines 5-6; page 5, lines 17-23; page 6, lines 1-5; page 9, lines 9-16; and so forth, as well as original Claims 1, 10, 11 and 21.

Support for *"identifying a plurality of suggestions from a photo opportunity database based on the geographic location of the device and matching of the content type for prospective photo opportunities with the content types within said user profile which express the user interests, wherein each suggestion indicates a unique photo*

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*opportunity*” is found in the drawings shown as element 620 in Figure 6; and found throughout the specification, including page 14, lines 1-15; page 19, lines 1-8; and so forth, as well as original Claims 2 and 5.

Support for *“listing a desired number of said suggestions in response to dynamically varying the radius of geographic limits”* is found throughout the specification, including page 13, lines 7-15; and page 15, lines 3-9; as well as original Claims 6-9.

Support for *“transmitting the listing of suggestions to the device”* is found in the drawings shown as element 550 in Figure 5; and found throughout the specification, including page 6, lines 1-9; page 11, lines 8-10; and so forth, as well as original Claims 1, 10 and 11.

Support for *“receiving a selection from the device wherein the selection is chosen from the listing of suggestions which match user interests as defined by user selected content types in said user profile”* is found in the drawings shown as element 640 in Figure 6; and found throughout the specification, including page 6, lines 7-10; page 10, lines 6-9; and so forth, as well as original Claims 22 and 28.

Support for *“transmitting detailed information, corresponding to the selection, to the device”* is found in the drawings shown as element 650, 660 in Figure 6; and found throughout the specification, including page 6, lines 7-13; page 11, lines 5-14; page 16, lines 1-6; and so forth, as well as original Claims 23-26 and 28.

Claim 21. Independent Claim 21 is directed to a system for suggesting local photo opportunities, with the elements of the claim supported by the specification, drawings and original claims as follows.

Support for *“an interface module configured for receiving a geographical location of a camera device”* is found in the drawings shown as element 115 in Figure 1; element 340 in Figure 3; and found throughout the specification, including page 10, lines 10-13; page 11, lines 15-23; and so forth, as well as original Claims 10, 21 and 28.

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Support for “a storage module configured for storing a user profile wherein the user profile includes at least one content type from a number of classification categories describing photographic interests of a user” is found in the drawings shown as element 330 in Figure 3, and found throughout the specification, including page 8, lines 1-5; page 8, lines 9-13; page 10, lines 1-3; page 14, lines 10-14; and so forth, as well as original Claims 21 and 27.

Support for “wherein said content type specifies the category, or kind, of photo opportunity in which the user is interested” is found throughout the specification, including page 8, lines 9-23; page 13, lines 1-10; and page 15, lines 10-16.

Support for “a review module configured for providing at least one suggestion based on matching the content types within the user profile which expresses user interests and the content type of the photo opportunity for the geographical location of the camera device” is found in the drawings shown as element 310 in Figure 3; and found throughout the specification, including page 8, lines 1-10; page 8, lines 9-23; page 13, lines 1-10; page 14, lines 16-19; and so forth, as well as original Claims 7 and 9.

Support for “wherein said review module updates the user profile based on prior photographs captured by the user through said camera device” is found throughout the specification, including page 6, lines 14-16; page 9, lines 5-8; and so forth, as well as original Claim 19.

Claim 28. Independent Claim 28 is directed to a computer-readable medium having computer executable instructions for performing a method of suggesting photo opportunities within a local area, with the elements of the claim supported by the specification, drawings and original claims as follows.

Support for “sensing a user profile describing the photographic interests of a user as content types, selected from a number of content type categories” and “wherein said content type specifies the category, or kind, of photo opportunity in which the user is interested” is found in the drawings shown as block 530 in Figure 5; and found

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throughout the specification, including page 6, lines 1-6; page 8, lines 10-23; page 13, lines 3-10; page 14, lines 16-19; page 15, lines 10-20; and so forth, as well as original Claims 2, 7, 9 and 21.

Support for “*determining a geographic location of a device*” is found in the drawings shown as location module 320 in Figure 3; block 540 in Figure 5; block 610 in Figure 6; block 720 in Figure 7 and found throughout the specification, including page 2, lines 5-6; page 5, lines 17-23; page 6, lines 1-5; page 9, lines 9-16; and so forth, as well as original Claims 1, 10, 11 and 21.

Support for “*identifying a plurality of suggestions from a photo opportunity database based on the geographic location of the device and matching of the content type for prospective photo opportunities with the photographic interests of the user as represented by content types within said user profile, wherein each suggestion indicates a unique photo opportunity*” is found in the drawings shown as element 620 in Figure 6; and found throughout the specification, including page 14, lines 1-15; page 19, lines 1-8; and so forth, as well as original Claims 2 and 5.

Support for “*transmitting the plurality of photo opportunity suggestions to the device*” is found in the drawings shown as element 550 in Figure 5; and found throughout the specification, including page 6, lines 1-9; page 11, lines 8-10; and so forth, as well as original Claims 1, 10 and 11.

Support for “*receiving a user selection from the device chosen from the plurality of suggestions which match user interests as defined by user selected content types in said user profile*” is found in the drawings shown as element 640 in Figure 6; and found throughout the specification, including page 6, lines 7-10; page 10, lines 6-9; and so forth, as well as original Claims 22 and 28.

Support for “*transmitting additional information to the user regarding the selected photo opportunity, corresponding to the selection, to the device*” is found in the drawings shown as element 650, 660 in Figure 6; and found throughout the specification, including page 6, lines 7-13; page 11, lines 5-14; page 16, lines 1-6; and



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so forth, as well as original Claims 23-26 and 28.

### **GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

Following are the grounds of rejection to be reviewed on Appeal.

Claims 1-5 and 21-28 under 35 U.S.C. §102(b) based on Baron (U.S. Patent No. 6,459,388).

Claims 3, 6, 8, 10-16 and 19-20 under 35 U.S.C. §103(a) based on Baron (U.S. Patent No. 6,459,388) in view of Wall et al. (U.S. Patent No. 6,731,239).

Claims 17-18 and 29-30 under 35 U.S.C. §103(a) based on Baron (U.S. Patent No. 6,459,388) in view of Hunter et al. (U.S. Publ. No. 2003/0020816).

### **ARGUMENT**

#### **1. Rejection of Claims 1-5 and 21-28 under 35 U.S.C. § 102(b).**

Claims 1-5 and 21-28 were rejected under 35 U.S.C. § 102(b) as being anticipated by Baron (U.S. Patent No. 6,549,388).

##### **A. Independent Claim 1.**

Elements of Claim 1 do not comport with reference teachings, as the Baron reference does not show all subject matter of the claim at issue. In positing this rejection, Examiner has put forth that each of these claim elements is taught in the cited Baron reference. However, the teachings of the cited reference are improperly construed against the claims, as will be shown. In particular, the following elements are clearly not taught by the Baron reference.

##### **(i) Use of “Content Types” is NOT Taught by Reference.**

The user profile recited in the claim “*describing the photographic interests of a user as content types selected from a number of content type categories within which the user has expressed interest; wherein said content type specifies the category, or kind, of photo opportunity in which the user is interested.*”

Examiner cites Baron column 7, lines 54-67 as teaching this aspect of Claim 1. In a most recent response to Applicant arguments, the Examiner asserts that “*The CPA discloses a system wherein a database is used to serve as a guide for users looking for*

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*a photo-spot (column 6, lines 25-31). This database contains photographs or images of scenic views (content types), which allow the user to see if the site is worth visiting (column 6, lines 25-31)."* A number of problems exist with these suppositions.

Examiner's assertion above has no probative value regarding the claim element at issue. The Examiner relies on generalizing the use of a photo database by Baron containing photographs taken at locations as a recitation of "*content types*" for specifying user interests within a user profile. Yet, no support is brought forth with regard to content types, as that term is understood within the instant application. In addition, images do not constitute selections within a user profile, nor do locations of the site of a photograph equate to selections of categories of interest by a user. At the core of this rejection is the attempt to redefine "*content type*" as recited in the claim to be an inherent property of a photo. This attempt is in direct contradiction to the clear recitations in the Applicant claim which addresses content type classification by the user. These aspects of the instant application and the Baron reference are clearly distinct from one another toward realizing the goals of Applicant's invention when selecting sites of interest.

The Baron reference teaches that the information retrieved from the database for the photo opportunities is a list of nearby site locations from which the user can select preview photos taken by other users at those locations to determine if the site is worth visiting. This nature of the Baron reference is seen in Column 7, lines 54-67.

*"According to the embodiment, the type of information provided by database 300 (or 20) to display 12 includes information to aid a user in selecting a nearby site for visiting, and navigational information for guiding the user to a preferred photo-spot for capturing a preferred view of the site. For example, according to one embodiment, using command keys 42, the user is able to scroll through a list of nearby sites on display 12 and select a site to preview. The preview includes photographs of the site which have been added to the database by previous users or by this user at a previous time, to allow the user to determine if the site is worth visiting are to allow the user to see if this scene is different from his/her last picture. If the user keys in a desire to visit the site, navigational information to the site is provided."*

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A number of things are seen from the above. Baron speaks of what “type” of information is supplied by the database. This information is described in detail as being “a list of nearby sites”, to which the user can preview photographs of the location (site) to determine if it is worth visiting. The word “type” here clearly cannot be equated to “content types” as recited in the claim at issue, while Baron also does not teach generating photo opportunity suggestions based on content types. Accordingly, Applicant respectfully asserts that both the meaning and use of the language of the claim have been misconstrued in positing this rejection.

**(ii) Use of “Matching Content Types” is NOT Taught by Reference.**

A portion of the claim recites “*identifying a plurality of suggestions from a photo opportunity database based on the geographic location of the device and matching of photographic interests as given by said content types within said user profile with the content type of the photo opportunity, wherein each suggestion indicates a unique photo opportunity*”, for which no relevant teaching has been put forth in support of the rejection.

Examiner again cites Baron column 7, lines 53-67 (shown previously) as teaching this aspect of the claim. In a most recent response to arguments the Examiner affirms the rejection as follows: “*a plurality of suggestions are displayed to the user which can be displayed based on the photos the user had taken previously (matching) and from the list of suggestions the user can select a site to visit (column 7, lines 53-67)*”. It can be seen from the above and the cited section of the reference, that Baron teachings have been misapplied to this aspect of the claim. In response to scrolling down a list of locations, Baron can display photos stored for that location, but this does not constitute “matching” a content type from a user profile to identify a plurality of suggestions for photo opportunities. The claim at issue here specifically recites that the content type for the photo opportunity as found in the user profile specifies the category, or kind, of photo opportunity in which the user is interested. The Baron reference thus utilizes different structure and criterion for the basis of listing sites

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from which the user can select a photo opportunity. Accordingly, the relied-upon teachings of the Baron reference do not comport to that which is recited by the claim at issue.

Support for an anticipation rejection requires that every claim element must be taught or inherent in a single prior art reference, Manual of Patent Examining Procedure (MPEP) §706.02a. It is clear that Claim 1 is thus not anticipated by the relied-upon reference.

Therefore, Applicant respectfully requests that the rejection of Claim 1 should be withdrawn.

**B. Independent Claim 21.**

Elements of Claim 21 do not comport with the teachings of the relied-upon reference. In positing this rejection the Examiner puts forth that each element of the claim is taught in the cited Baron reference. However, the teachings of the cited reference are improperly construed against a number of claim aspects, as will be shown.

**(i) Use of “Content Types” is NOT Taught by Reference.**

A storage module is recited in the claim as “*configured for storing a user profile wherein the user profile includes at least one content type from a number of classification categories describing photographic interests of a user; wherein said content type specifies the category, or kind, of photo opportunity in which the user is interested.*”

Examiner cites Baron as teaching this aspect of Claim 21, the equivalence being based on the assertion “*wherein a database contains pictures of the sites previously captured by the user*”. Yet, pictures of sites do not constitute selections within a user profile, nor does retaining site pictures equate to selections of categories of interest by a user. At the core of this rejection is the attempt to redefine “*content type*” as recited in the claim to be an inherent property of an image. This attempt is in direct contradiction to the clear recitations in the Applicant claim which addresses content type

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classification by the user. The rejection attempts to rely on column 7, lines 54-67 of Baron for support:

*"According to the embodiment, the type of information provided by database 300 (or 20) to display 12 includes information to aid a user in selecting a nearby site for visiting, and navigational information for guiding the user to a preferred photo-spot for capturing a preferred view of the site. For example, according to one embodiment, using command keys 42, the user is able to scroll through a list of nearby sites on display 12 and select a site to preview. The preview includes photographs of the site which have been added to the database by previous users or by this user at a previous time, to allow the user to determine if the site is worth visiting are to allow the user to see if this scene is different from his/her last picture. If the user keys in a desire to visit the site, navigational information to the site is provided."*

Baron does not teach the use of "content types" for specifying user interests within a user profile. The use of the word "type" in the portion of the Baron reference above appears of no probative value as it merely indicates that database 300 contains "information to aid a user in selecting a nearby site"; it does not describe multiple types, or specifically the use of "content types" as a means for selecting photo opportunities. It is very apparent that maintaining pictures of previously viewed sites within a database can not be equated to the use of "storing a user profile wherein the user profile includes at least one content type from a number of classification categories describing photographic interests of a user". No mention of a user profile or categorization via content type is described in the relied-upon Baron reference.

The claim element describes the storage of a user profile containing the content types and specifies "wherein said content type specifies the category, or kind, of photo opportunity in which the user is interested". Nothing of this nature is brought forth as a teaching from the Baron reference.

**(ii) Use of "Matching Content Types" is NOT Taught by Reference.**

The claim at issue also recites "a review module configured for providing at least one suggestion based on matching the content types within the user profile which expresses user interests and the content type of the photo opportunity for the

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*geographical location of the camera device".*

Differing significantly from the above claim element is the cited section of Baron which discusses listing nearby site locations to which images may be available. The Baron reference specifically teaches that the information retrieved from the database for the photo opportunities is a list of nearby site locations from which the user can select preview photos taken by other users at those locations to determine if the site is worth visiting.

The Baron reference as seen in column 7, lines 54-67 above and relied upon by the Examiner, does not teach providing at least one suggestion based on "*matching*" the "*content types*" with the "*user profile*" which expresses user interests and the content type of the photo opportunity. The Baron reference can display photos stored for a specific nearby site location, but this does not constitute "*matching*" a content type from a user profile to identify a plurality of suggestions for photo opportunities. The claim at issue specifically recites that the content type for the photo opportunity, as found in the user profile, specifies the category, or kind, of photo opportunity in which the user is interested.

The Baron reference thus utilizes different structure and criterion for the basis of listing sites from which the user can select a photo opportunity. Accordingly, the teachings of Baron do not comport to that which is recited by the claim at issue.

Support for an anticipation rejection requires that every claim element must be taught or inherent in a single prior art reference, Manual of Patent Examining Procedure (MPEP) §706.02a. It is clear that Claim 1 is thus not anticipated by the relied-upon reference.

Therefore, Applicant respectfully requests that the rejection of Claim 21 should be withdrawn.

**C. Independent Claim 28.**

Elements of Claim 28 do not comport with the teachings of the relied-upon reference. In positing this rejection Examiner has put forth that each of these claim

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elements is taught in the cited Baron reference. However, the teachings of the cited reference are improperly construed against a number of claim aspects, as will be shown.

**(i) Use of “Content Types” is NOT Taught by Reference.**

Utilization of a user profile is described in the claim as “sensing a user profile describing the photographic interests of a user as content types, selected from a number of content type categories; wherein said content type specifies the category, or kind, of photo opportunity in which the user is interested.”

Examiner puts forth that pictures of the sites previously captured by the user are interpreted as “different content types”. Yet, pictures of sites do not constitute selections within a user profile, nor does retaining site pictures equate to selections of categories of interest by a user. At the core of this rejection is the attempt to redefine “content type” as recited in the claim to be an inherent property of an image. This attempt is in direct contradiction to the clear recitations in the Applicant claim which addresses content type classification by the user. The rejection relies upon column 7, lines 54-67 of Baron for support:

“According to the embodiment, the type of information provided by database 300 (or 20) to display 12 includes information to aid a user in selecting a nearby site for visiting, and navigational information for guiding the user to a preferred photo-spot for capturing a preferred view of the site. For example, according to one embodiment, using command keys 42, the user is able to scroll through a list of nearby sites on display 12 and select a site to preview. The preview includes photographs of the site which have been added to the database by previous users or by this user at a previous time, to allow the user to determine if the site is worth visiting are to allow the user to see if this scene is different from his/her last picture. If the user keys in a desire to visit the site, navigational information to the site is provided.”

A number of things are seen from the above. The use of the word “type” in the Baron reference appears of no probative value as it is merely used to indicate that database 300 contains “information to aid a user in selecting a nearby site”; it does not describe multiple types, or specifically the use of “content types” as a means for

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selecting photo opportunities. This problem appears to highlight a common short-coming with over-reliance on keyword-searching in drafting a rejection.

In the relied-upon section, Baron proceeds to discuss what this information entails, and specifically describes in detail “*a list of nearby sites*”, to which the user can preview photographs of the location (site) to determine if it is worth visiting. Yet, Baron does not describe a user profile containing content type information which expresses user interests. The claim at issue here specifically recites that the content type for the photo opportunity as found in the user profile specifies the category, or kind, of photo opportunity in which the user is interested. The intended support for the rejection is thus misapplied as the teachings of the reference clearly do not anticipate this claim aspect.

**(ii) Use of “Matching Content Types” is NOT Taught by Reference.**

The claim at issue also recites “*identifying a plurality of suggestions from a photo opportunity database based on the geographic location of the device and matching of the content type for prospective photo opportunities with the photographic interests of the user as represented by content types within said user profile, wherein each suggestion indicates a unique photo opportunity*”.

The cited section of Baron discusses listing nearby site locations to which images may be available, and which differs significantly from the above element of the claim at issue. In addition, images do not constitute selections within a user profile, nor do locations of the site of a photograph equate to selections of categories of interest by a user.

Examiner asserts the equality of this portion of the claim and the Baron reference by stating that “*wherein a plurality of sites are displayed to a user and the user is free to visit any of the sites that the use[r] desires*” (which is the same basis of support relied upon for the subsequent element of Claim 28). It should be noted that the claim portion at issue is certainly not directed to an ability to visit a site, but with matching content types from a user profile to determine a set of prospective photo



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opportunities. These aspects of the instant application and the Baron reference are thus clearly distinct from one another.

The Baron reference thus utilizes different structure and criterion for the basis of listing sites from which the user can select a photo opportunity. Accordingly, the teachings of the Baron reference do not comport to those recited by the claim at issue.

Support for an anticipation rejection requires that every claim element must be taught or inherent in a single prior art reference, Manual of Patent Examining Procedure (MPEP) §706.02a. It is clear that Claim 28 is thus not anticipated by the relied-upon reference.

Therefore, Applicant respectfully requests that the rejection of Claim 28 should be withdrawn.

#### **D. Dependent Claim 2.**

Dependent Claim 2 is directed to subsets of the content types, and should be considered *a fortiori* allowable in view of the demonstrated allowability of its parent claim over the cited references.

In support of the rejection, it is asserted that column 7, lines 60-65 of Baron provide support for these subsets of the content types expressed in Claim 1.

However, Applicant finds nothing within this section of Baron which puts forth any such teachings. The relied upon section stating: “...*the user is able to scroll through a list of nearby sites on display 12 and select a site to preview. The preview includes photographs of the site which have been added to the database by previous users or by this user at a previous time, to allow the user to determine if the site is worth visiting are [or] to allow the user to see if this scene is different from his/her last picture.*” It can be seen that Baron is describing a preview mode and that no mention of sub-categorization of the types of photo opportunities is thus described.

It can be seen that Applicant’s claim builds off of the “*content types*” described in the parent claim and for which it was shown that the Baron reference was silent. This dependent claim specifically recites: “*wherein said content type categories for*

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*representing user interests comprises general categories of content types as well as subsets of the general categories of content types within said user profile*". As mentioned in relation to independent Claims 1, 21 and 28, Baron provides lists according to location and teaches neither the use of content type categories, nor the use of content type subsets of categories. Consequently, the Baron reference does not anticipate the claim as it provides no teaching whatsoever of content types or of subsets to content types.

As support for an anticipation rejection requires that every claim element must be taught or inherent in a single prior art reference, Manual of Patent Examining Procedure (MPEP) §706.02a. It is clear that dependent Claim 2 is not anticipated by the relied-upon reference.

Therefore, as dependent Claim 2 is not anticipated by the Baron reference, the rejection of Claim 2 should be withdrawn.

**E. Dependent Claim 3.**

Although included within the range of claims subject to this rejection (Claims 1-5 and 21-28), the support for the rejection of Claim 3 was actually put forth in the next group of rejections, those subject to an obviousness rejection.

**F. Dependent Claim 4.**

Dependent Claim 4 depends from independent Claim 1, whose patentability has been demonstrated, wherein Claim 4 should be considered *a fortiori* allowable in view of the patentability of its respective base claim.

**G. Dependent Claim 5.**

Dependent Claim 5 is directed to "*selecting the at least one suggestion from a plurality of suggestions within a photo opportunity database wherein each suggestion includes a content type and a geographic location*", which relates back to the "*matching of photographic interests as given by said content types*" in the parent claim for which the suggestions are generated.

This dependent claim should be considered *a fortiori* allowable in view of the

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demonstrated allowability of its parent claim, while also providing additional patentable distinction.

In support of the rejection of Claim 5 it is asserted that column 7, line 53 through column 8, line 6 of Baron teaches this aspect of the invention.

However, the bulk of these relied-upon teachings of Baron were discussed previously and the teachings of this section do not describe anything relating to content types as referred to in this claim and recited in the parent claim. The Baron reference teaches only the use of geographic location as a basis for the listing of nearby sites.

Accordingly, the Baron reference does not anticipate this aspect of Claim 5 because anticipatory support requires that every claim element must be taught or inherent in a single prior art reference, MPEP §706.02a. It is clear that dependent Claim 5 is not anticipated by the relied-upon reference.

Therefore, as dependent Claim 5 is not anticipated by the Baron reference, the rejection of Claim 5 should be withdrawn.

#### **H. Dependent Claims 22-26.**

Dependent Claims 22-26, depend, directly or indirectly, from independent Claim 21 and should be considered *a fortiori* allowable in view of the demonstrated patentability of their base claim over the cited references.

#### **I. Dependent Claim 27.**

Dependent Claim 27 depends from dependent Claim 22 and independent Claim 21 and is directed to "*wherein the storage module is configured to store a photo opportunity database that includes a plurality of photo opportunity listings wherein each listing is associated with a geographic area and a content type*".

This dependent claim should be considered *a fortiori* allowable in view of the demonstrated patentability of its parent claim over the cited references, while the claim also provides additional patentable distinction.

In support of the rejection of Claim 27 it is stated that Baron teaches "*each listing is associated with a geographic area and a content type (column 6, lines 19-37)*."

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However, the relied upon section does not describe classification categorization according to content type as defined by the term "*content type*" referred to in the base claim or Applicant specification. The section of Baron relied upon merely describes a database of sites which includes locations of the site and information about how to get to the site, descriptions of scenic views and preview photos. There is no discussion about "*content type*" as categorization, which is required for anticipation of this dependent claim.

Accordingly, the Baron reference does not anticipate this aspect of Claim 27 because anticipatory support requires that every claim element must be taught or inherent in a single prior art reference, MPEP §706.02a. It is thus clear that dependent Claim 27 is not anticipated by the relied-upon reference.

Therefore, as dependent Claim 27 is not anticipated by the Baron reference, the rejection of Claim 27 should be withdrawn.

**2. Rejection of Claims 3, 6, 8, 10-16 and 19-20 under 35 U.S.C. § 103(a).**

Claims 3, 6, 8, 10-16 and 19-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Baron (U.S. Patent No. 6,549,388) in view of Wall et al. (U.S. Patent No. 6,731,239).

**A. Independent Claim 10.**

Independent Claim 10 is directed to a mean-plus-function description of a system for identifying photographic opportunities.

**(i) No Teaching, Suggestion or Motivation for use of "Content Type" Categorizing.**

In support of this rejection, the teaching found in the Baron reference at column 7, lines 53-67 (which was also put forth in relation to independent Claims 1, 21 and 28 above) was again used to support the rejection, in this case an assertion that "*content types*" as recited in applicant claims are obvious in view of the teachings of Baron. In putting forth this rejection the Examiner asserts that "*each photograph taken by the user stored by the database is a content type*". In this way the rejection attempts to

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redefine “*content type*” to be an inherent property of an image which is a position in direct contradiction to the clear recitations of the claim, as well as the “plain meaning” of the term in context.

Claim 10 addresses content type classification specified by the user, such as “means for sensing a user profile describing the photographic interests of a user as content types, classified under a number of content type categories, in which the user has expressed interest”, and thereby recites aspects for which no teaching, suggestion or motivation is put forth from the cited Baron reference.

As found in the relied-upon section, the Baron reference teaches that the information retrieved from the database for the photo opportunities is a list of nearby sites (locations) from which the user can preview photos taken by other users at those locations to determine if the site is worth visiting, and make a selection.

However, Claim 10 makes it plain that content types are “*classified under a number of content type categories*” and that the “*content type specifies the category, or kind, of photo opportunity in which the user is interested*”. Although a photo is an object that contains image content which can be classified according to a given content type, this does not constitute a classification into content type within a user profile as recited in the claim. This assertion of obviousness by the Examiner appears akin (hypothetically) to positing a rejection of location selection aspects of the Baron reference on the basis that each photo represents a location. The “*content type*” described in the claims thus is clearly distinct from types of information retrieved from the database of Baron which does not store categories of content type that the user is interested.

#### 2143.03 All Claim Limitations Must Be Taught or Suggested

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is

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nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

It is clear that the Baron reference does not teach, suggest or provide motivation for these aspects of the recited claim.

**(ii) No Teaching, Suggestion or Motivation for use of “Matching of the Content Type”.**

In addition, the description of how the photo opportunity suggestions are generated in the claims describes “*matching of the content type for prospective photo opportunities with the content types within said user profile expressing user interests*”.

Baron column 7, lines 53-67 are relied upon in the rejection to support matching of the content type, though no additional information is provided as to how this section from Baron purportedly teaches this aspect of Claim 10. The cited section of Baron discusses listing nearby site locations to which images may be available, which is a teaching that differs significantly from the element of the claim at issue. In addition, images do not constitute category selections within a user profile, nor do locations of the site of a photograph equate to selection of categories of interest by a user.

Examiner asserts the equality of this portion of the claim and the Baron reference by stating that “*wherein each photograph taken by a user stored by the database is a content type in which the user has expressed interest...*”. From reading Baron column 7, lines 53-67 it is clear that the user performs selection based on location, and not on content type categories. A photo is not a content type category stored in a user profile. It should also be noted that support is lacking for the matching aspect recited in the claim. Consequently, the above aspects of the instant application and the Baron reference are clearly distinct from one another.

The Baron reference thus utilizes different structures and criterion for the basis of listing sites from which the user can select a photo opportunity. Accordingly, the Baron reference does not teach, suggest or provide motivation for that which is recited in Claim 10.

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The claim limitation referring to “*matching*” is thus not taught or suggested by the prior art, wherein no *prima facie* case of obviousness has been established.

**(iii) No Teaching, Suggestion or Motivation for use of “Dynamically Varying Geographic limits”.**

The claim at issue also recites generating suggestions to the user and “dynamically varying the radius of geographic limits to the device based on the geographic location of the device and matching of the content type for prospective photo opportunities with the content types within said user profile expressing user interests, wherein the suggestion indicates a photo opportunity”.

In support of the rejection, a combination with the Wall reference is put forth as “*Baron does not explicitly disclose dynamically widening or narrowing an area around the geographic location of the device to either increase or decrease the number of suggestions received*” as stated by the Examiner. The rejection relies upon column 4 lines 61-65 from the Wall reference toward supporting “*adjusting (increasing or decreasing) the given distance around position coordinates*”. However, the rejection suffers from a number of intractable problems.

The relied-upon section of the Wall reference describes “*reduce the given distance around the position coordinates*” (column 4, line 64-65), yet no support is put forth for how this is done in combination with “*matching of the content type for prospective photo opportunities*” as recited in Applicant’s claim. Considering an increase or decrease in distance around a position coordinate of itself is not what the claim at issue is directed towards. Neither of the references provide any teachings relating to the use of a content type specifier and the matching of the content type specifier in generating suggestions. Accordingly, a consideration of increasing or decreasing geographic limits must be directed at this claimed aspect in order to have meaning in this context. From the above considerations it is clear that this claim limitation is neither taught nor suggested by the reference, wherein no *prima facie* case of obviousness has been established.

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In summary, neither the Baron or Wall reference, or combination thereof, provides any teaching, suggestion or motivation for saving in the user profile categories of content type that the user has expressed an interest in, and neither teach the transmitting of suggestions in response to matching the category of content type of the photo opportunities to be suggested with the content types specified in the user profile. Furthermore, consideration of changing geographic limitations must be in the context of being based on the matching of content type to have any relevance to the claim. Each of these shortcomings is sufficient in itself to overcome the obviousness rejection, while the confluence is illustrative of clear patentability over the cited references.

**(iv) Additional problems with the Obviousness Rejection.**

It is seen from above that in a number of areas the combination put forth between Baron and Wall still do not add up to the claimed invention, wherein it is improper to assert a holding of obviousness against the claim in view of these references. It should also be appreciated that a number of additional shortcomings attend this obviousness rejection.

For example, it is not surprising that the Wall reference does not disclose all aspects recited in Applicant claims, since the Wall reference is not even directed at a camera application at all. The Wall reference is not analogous art to the instant application as Wall is directed instead to a vehicular information system by Ford Motor company for providing information from a GPS system about nearby locations (see column 1, lines 15-38).

It should also be noted that the system of Wall is directed to different objects and operating principles than that of Baron, as well as the Applicant's claimed invention. Wall is directed at a vehicle information system and is clearly not directed at the collection and storage of photographs from which aspects of Baron are recited, or to "*identifying photographic opportunities*" as is recited as the object of the claim at issue.

A number of additional shortcomings attend this rejection, which are briefly mentioned as including: rejection based only on similarity of inventive concept or idea,



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advantages cannot be disregarded, modification based on hindsight in view of applicant's teaching, new principle of operation utilized, solved a different problem, lack of specificity of suggestion to modify, elements in references are not equivalent, unworkable combination, useless combination, no need of element within references, no motivation to combine, obvious to try is not a standard of obviousness, and the invention is to be considered as a whole.

Therefore, Applicant respectfully requests that the rejection of Claim 10, and the claims which depend therefrom, be withdrawn.

**B. Independent Claim 11.**

Independent Claim 11 is directed to a method claim having a similar, although more numerous, set of claim elements as were recited in the means-plus-function structure of Claim 10.

**(i) No Teaching, Suggestion or Motivation for use of "Content Type" Categorizing.**

In support of this rejection, the teaching found in the Baron reference at column 7, lines 53-67 was again used to support the rejection. The rejection asserts that "*content types*" as recited in applicant claims are obvious in view of the teachings of Baron. In putting forth this rejection, the Examiner asserts that "*each photograph taken by the user stored by the database is a content type*". This is an attempt to redefine "*content type*" to be an inherent property of an image in direct contradiction to the "plain meaning" of the words and the clear recitations in the Applicant claim which address content type classification as specified by the user, which are aspects for which no teaching, suggestion or motivation exists in the cited Baron reference.

The relied-upon section of the Baron reference teaches that the information retrieved from the database for the photo opportunities is a list of nearby sites (locations) from which the user can preview photos taken by other users at those locations to determine if the site is worth visiting, and make a selection.

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However, Applicant's Claim 11 makes it plain that content types are "*classified under a number of content type categories*" and that the "*content type specifies the category, or kind, of photo opportunity in which the user is interested*". Although a photo is an object that contains image content which can be classified according to a given content type, this does not constitute a classification into content type, and in particular into a content type within a user profile as recited in the claim. This assertion of obviousness by the Examiner on this basis appears akin to (hypothetically) positing a rejection of a location specification aspect of the Baron reference on the premise that each photo represents a location. The "*content type*" described in Claim 11 is thus clearly distinct from types of information retrieved from the database of Baron which does not store categories of content type that the user is interested.

#### 2143.03 All Claim Limitations Must Be Taught or Suggested

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

It is clear that the Baron reference does not teach, suggest or provide motivation for these aspects of the recited claim, wherein no *prima facie* case of obviousness has been established.

#### **(ii) No Teaching, Suggestion or Motivation for use of "Matching of the Content Type".**

In addition, the description of how the photo opportunity suggestions are generated in the claims describes "*matching of the content type for prospective photo opportunities with the content types within said user profile expressing user interests*".

Baron column 7, lines 53-67 are relied upon in support of the matching of the content type, though no additional information is provided as to how this section from Baron purportedly teaches this aspect of Claim 11. The cited section of Baron

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discusses listing nearby site locations to which images may be available, which is a teaching that differs significantly from the element of the claim at issue. In addition, images do not constitute category selections within a user profile, nor do locations of the site of a photograph equate to selections of categories of interest by a user.

Examiner asserts the equality of this portion of the claim and the Baron reference by stating that "*wherein each photograph taken by a user stored by the database is a content type in which the user has expressed interest...*". It should be noted that there is no support for the matching aspect, while the problem with considering the photos themselves as content types was addressed above. Consequently, the above aspects of the instant application and the Baron reference are manifestly distinct from one another.

The Baron reference thus utilizes different structure and criterion for the basis of listing sites from which the user can select a photo opportunity. Accordingly, the Baron reference does not teach, suggest or provide motivation for that which is recited in Claim 11.

This above claim limitation is not taught or suggested by the prior art, wherein no *prima facie* case of obviousness has been established.

**(iii) No Teaching, Suggestion or Motivation for use of "Dynamically Varying Geographic limits".**

The claim at issue also recites generating suggestions to the user and "dynamically varying the radius of geographic limits to the device based on the geographic location of the device and matching of the content type for prospective photo opportunities with the content types within said user profile expressing user interests, wherein the suggestion indicates a photo opportunity".

In support of the rejection, a combination with the Wall reference is put forth as "*Baron does not explicitly disclose dynamically widening or narrowing an area around the geographic location of the device to either increase or decrease the number of suggestions received*" as stated by the Examiner. Column 4, lines 61-65 of the Wall

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reference are relied-upon in support of "*adjusting (increasing or decreasing) the given distance around position coordinates*". A number of problems attend this assertion.

The relied-upon section of the Wall reference describes "*reduce the given distance around the position coordinates*" (column 4, line 64-65), but there is no support put forth for how this is done in combination with "*and matching of the content type for prospective photo opportunities*" as recited in Applicant's claim. Considering an increase or decrease in distance around a position coordinate of itself is not what the claim at issue is directed towards. Neither of the references provides any teachings relating to the use of a content type specifier and the matching of the content type specifier in generating suggestions. Accordingly, a consideration of increasing or decreasing geographic limits must be directed at this claimed aspect in order to have meaning in this context. From the above considerations it is clear that this claim limitation is neither taught nor suggested by the reference, wherein no *prima facie* case of obviousness has been established.

In summary, neither the Baron or Wall reference, or combination thereof, provides any teaching, suggestion or motivation for saving in the user profile categories of content type that the user has expressed an interest in, and neither teach the transmitting of suggestions in response to matching the category of content type of the photo opportunities to be suggested with the content types specified in the user profile. Furthermore, consideration of changing geographic limitations must be in the context of matching content type to have any relevance to the claim. Each of these shortcomings is sufficient in itself to overcome the obviousness rejection, while the confluence of these shortcomings is clearly illustrative of patentability over the cited references.

**(iv) Additional problems with the Obviousness Rejection.**

It is seen from above that in a number of areas the combination put forth between Baron and Wall still do not add up to the claimed invention, wherein it is improper to assert a holding of obviousness against the claim in view of these

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references. It should also be appreciated that a number of additional shortcomings attend this obviousness rejection.

For example, it is not surprising that the Wall reference does not disclose all aspects recited in Applicant claims, since the Wall reference is not even directed at a camera application at all. The Wall reference is not analogous art to the instant application as Wall is directed instead to a vehicular information system by Ford Motor company for providing information from a GPS system about nearby locations (see column 1, lines 15-38).

A number of additional shortcomings attend this rejection, which are here briefly mentioned as including: rejection based only on similarity of inventive concept or idea, advantages cannot be disregarded, modification based on hindsight in view of applicant's teaching, new principle of operation utilized, solved a different problem, lack of specificity of suggestion to modify, elements in references are not equivalent, unworkable combination, useless combination, no need of element within references, no motivation to combine, obvious to try is not a standard of obviousness, and the invention is to be considered as a whole.

Therefore, Applicant respectfully requests that the rejection of Claim 10, and the claims which depend therefrom, be withdrawn.

**C. Dependent Claim 3.**

Dependent Claim 3 is directed to "*said identifying a plurality of suggestions generates a desired number of listings in response to dynamically varying the radius of geographic limits*", which relates back to the "*matching of photographic interests as given by said content types*" in the parent claim for which the photo opportunity suggestions are generated.

This dependent claim should be considered *a fortiori* allowable in view of the demonstrated allowability of its parent claim, while Claim 3 also provides additional patentable distinction.

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As described in relation to the parent claim, Baron teaches listing nearby site locations, but teaches nothing in relation to matching categories of content types in offering suggestions.

A combination with Wall is put forth in order to bridge the shortcomings with regard to *"dynamically varying the radius of geographic limits"*. However, the combination put forth between Baron and Wall still provides no support for the use of either *"content types"* or *"matching"* of content types, or for the varying of geographic limits as recited in Claim 3 which relies on content types as the basis on which the *"desired number of listings"* as recited in Claim 3 were generated. It can be seen that Claim 3 builds upon categorization in the changing of geographic limits, wherein it can be readily understood that one cannot separately consider changing of geographic limits apart from considering the content type aspects. The combination of Baron and Wall provide no teaching, suggestion or motivation for the aspects of Claim 3; wherein no *prima facie* case of obviousness has been established.

Therefore, as dependent Claim 3 is unobvious in view of a combination between Baron and Wall, the rejection of Claim 3 should be withdrawn.

**D. Dependent Claim 6.**

Dependent Claim 6 depends from dependent Claim 5 and base Claim 1 and is directed to *"adding additional suggestions to the at least one suggestion by widening an area around the geographic location of each suggestion that the device is found within, or by relaxing a requirement that the content type of each suggestion match the user profile"*.

This dependent claim should be considered a *fortiori* allowable in view of the demonstrated allowability of its parent claim, yet this claim also provides additional patentable distinction.

It should be noted that the suggestions, to which *"additional suggestions"* are added are identified as per base Claim 1, *"based on the geographic location of the device and matching of photographic interests as given by said content types within*

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*said user profile...*". It is consonant with this recitation that the additional suggestions recited in the dependent claim are similarly formed.

However, no support for how these geographic limits are changed in combination with "*matching of the content type for prospective photo opportunities*" is found in column 4, lines 61-65 of the Wall reference. It should be appreciated that an increase or decrease in distance around a position itself is not what the claim at issue in its proper context is directed. Neither of the relied-upon references (Baron or Wall) provides any teachings relating to the use of a content type specifier in response to which suggestions are generated and the matching of the content type specifier in generating suggestions. From the above considerations it is clear that this claim limitation is neither taught nor suggested by the reference, wherein no *prima facie* case of obviousness has been established.

Accordingly, since neither the Baron or Wall reference, or combination thereof, provides any teaching, suggestion or motivation for changing geographic limits in response to a content type, or relaxing content type matching, then Claim 6 is unobvious over the cited reference.

Therefore, Applicant respectfully requests that the rejection of dependent Claim 6 should be withdrawn.

**E. Dependent Claim 8.**

Dependent Claim 8 depends from dependent Claim 5 and base Claim 1 and is directed to "*reducing a number of the at least one suggestion by tightening a requirement that the content type of each suggestion match the user profile*".

This dependent claim should be considered *a fortiori* allowable in view of the demonstrated allowability of its parent claim, and also provides additional patentable distinction.

In support of the rejection, column 4, lines 61-65 of Wall are put forth to describe the limiting or increasing of geographic limits. However, the claim is particularly directed to tightening a content type requirement and neither Baron nor Walls provides

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any teaching or suggestion for the use of “*content types*” or content type “*matching*” as a basis for the generation of suggestions. The claim at issue is directed at tightening content type requirements to alter the number of suggestions generated; which is an aspect that cannot be met by the proffered combination of references asserted by the Examiner. It should be recognized that the section of Wall relied-upon for supporting the rejection discusses changing of geographic limits for a list of locations, and thus has only incidental relevance to content type reduction.

The combination of Baron and Wall provides no teaching, suggestion or motivation for the aspects of Claim 8; wherein no *prima facie* case of obviousness has been established.

Therefore, Applicant respectfully requests that the rejection of dependent Claim 8 should be withdrawn.

**F. Dependent Claims 12-16.**

Dependent Claims 12-16, which depend from independent Claim 11, should be considered *a fortiori* allowable in view of the demonstrated patentability of the parent claim over the cited references.

**G. Dependent Claim 19.**

Dependent Claim 19 depends from dependent Claim 16 and base Claim 11 and is directed to “*further comprising updating the user profile based on images captured by the device*”, which is directed to detecting an image captured by the camera as recited in Claim 16.

This dependent claim should be considered *a fortiori* allowable in view of the demonstrated allowability of its parent claim, while also providing additional patentable distinction.

In support of the rejection, column 8 lines 20-33 of Baron are relied upon for teaching “*the captured image is placed into a remote database for future use by the user*”. The text describes the practice to “*provide locational and/or imaging data on the photographs taken by camera 400*”, or that this information may be placed in a



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database.

However, the basis of support does not match with the tenets of the claim language, specifically Claim 19 recites "*updating the user profile based on the images captured by the device*", which is clearly not the same as simply retaining information about images in a database as relied upon by the Baron reference. Furthermore, neither the Baron or the Wall reference provides any teaching, suggestion or motivation for updating the user profile in response to the images captured by the camera. Accordingly, no *prima facie* case of obviousness has been established against Claim 19.

Therefore, Applicant respectfully requests that the rejection of dependent Claim 19 should be withdrawn.

#### **H. Dependent Claim 20.**

Dependent Claim 20 depends from dependent Claim 16 and base Claim 11 and is directed to "*further comprising detecting a content type of the captured image*", which is directed to detecting an image captured by the camera as recited in Claim 16.

This dependent claim should be considered *a fortiori* allowable in view of the demonstrated allowability of its parent claim over the cited references, while providing additional patentable distinction.

In support of the rejection, column 8, lines 20-28 of Baron are relied upon for teaching "*detecting a content type of the captured image (column 8, lines 20-28), wherein the imaging data and location information can be used to determine the content type*".

However, the section of Baron relied upon describes the inclusion of location and/or imaging information on the photograph, which Applicant asserts provides NO support at all for "*detecting a content type of the captured image*", as the term "*content type*" is given in the base claim and known throughout Applicant's specification. As described with regard to the independent claims, the Baron reference provides no teaching whatsoever relating to the use of "*content types*" within a "*user profile*". The

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Wall reference similarly provides no teaching, suggestion or motivation for updating the user profile in response to the images captured by the camera. Accordingly, no *prima facie* case of obviousness has been established against Claim 20.

Therefore, Applicant respectfully requests that the rejection of dependent Claim 20 should be withdrawn.

**3. Rejection of Claims 17-18 and 29-30 under 35 U.S.C. § 103(a).**

Claims 17-18 and 29-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Baron (U.S. Patent No. 6,549,388) in view of Hunter et al. (U.S. Publ. No. 2003/0020816).

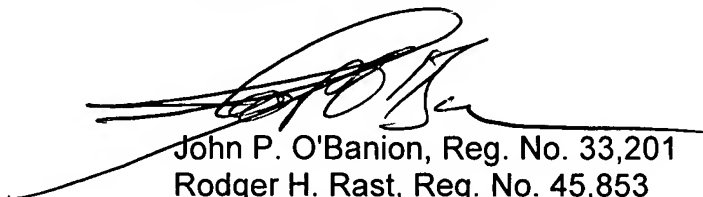
Dependent Claims 17-18 and 29-30, depend from independent Claim 16 and 28, respectively, and should be considered *a fortiori* allowable in view of the patentability of their parent claims over the cited references.

**CONCLUSION**

Accordingly, the Applicant respectfully requests a determination that Claims 1-6, 8 and 10-30 are allowable.

Date: 5/30/07

Respectfully submitted,

  
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Appendix:

*Pending Claims Appendix*

*Evidence Appendix*

*Related Proceedings Appendix*

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### **CLAIMS APPENDIX**

1. A method of identifying photographic opportunities, comprising:
  - maintaining a user profile describing the photographic interests of a user as content types selected from a number of content type categories within which the user has expressed interest;
  - wherein said content type specifies the category, or kind, of photo opportunity in which the user is interested;
  - determining a geographic location of a device;
  - identifying a plurality of suggestions from a photo opportunity database based on the geographic location of the device and matching of photographic interests as given by said content types within said user profile with the content type of the photo opportunity, wherein each suggestion indicates a unique photo opportunity;
  - transmitting the plurality of photo opportunity suggestions to the device;
  - receiving a user selection from the device chosen from the plurality of suggestions; and
  - transmitting additional information to the user regarding the selected photo opportunity to the device.
2. The method according to Claim 1 wherein said content type categories for representing user interests comprises general categories of content types as well as subsets of the general categories of content types within said user profile.
3. The method according to Claim 1 wherein said identifying a plurality of suggestions generates a desired number of listings in response to dynamically varying the radius of geographic limits.
4. The method according to Claim 1 wherein the device is an image sensing device or a camera device.

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5. The method according to Claim 1 further comprising selecting the at least one suggestion from a plurality of suggestions within a photo opportunity database wherein each suggestion includes a content type and a geographic location.

6. The method according to Claim 5 further comprising adding additional suggestions to the at least one suggestion by widening an area around the geographic location of each suggestion that the device is found within, or by relaxing a requirement that the content type of each suggestion match the user profile.

7. (canceled)

8. The method according to Claim 5 further comprising reducing a number of the at least one suggestion by tightening a requirement that the content type of each suggestion match the user profile.

9. (canceled)

10. A system of identifying photographic opportunities, comprising:  
means for sensing a user profile describing the photographic interests of a user as content types, classified under a number of content type categories, in which the user has expressed interest;  
wherein said content type specifies the category, or kind, of photo opportunity in which the user is interested;  
means for determining a geographic location of a device; and  
means for transmitting a desired number of suggestions, incorporating at least one suggestion, within a listing generated in response to dynamically varying the radius of geographic limits to the device based on the geographic location of the device and

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matching of the content type for prospective photo opportunities with the content types within said user profile expressing user interests, wherein the suggestion indicates a photo opportunity.

11. A method, comprising:  
sensing a user profile containing user content type selections classified under a number of content type categories describing the photographic interests of a user;  
wherein said content type specifies the category, or kind, of photo opportunity in which the user is interested;  
determining a geographic location of a device;  
identifying a plurality of suggestions from a photo opportunity database based on the geographic location of the device and matching of the content type for prospective photo opportunities with the content types within said user profile which express the user interests, wherein each suggestion indicates a unique photo opportunity;  
listing a desired number of said suggestions in response to dynamically varying the radius of geographic limits;  
transmitting the listing of suggestions to the device;  
receiving a selection from the device wherein the selection is chosen from the listing of suggestions which match user interests as defined by user selected content types in said user profile; and  
transmitting detailed information, corresponding to the selection, to the device.

12. The method according to Claim 11 wherein the device is a camera device.

13. The method according to Claim 11 wherein the detailed information includes a sample image of the selection.

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14. The method according to Claim 11 wherein the detailed information includes directions to the selection based on the geographic location of the camera device.

15. The method according to Claim 11 wherein the detailed information includes a description of the selection.

16. The method according to Claim 11 further comprising detecting an image captured by the camera device.

17. The method according to Claim 16 further comprising comparing the captured image with a sample image corresponding to the selection and associating information from the sample image to the captured image if a match between the captured image and the sample image exists.

18. The method according to Claim 17 further comprising adding descriptive text to the captured image based on matching the captured image with the sample image.

19. The method according to Claim 16 further comprising updating the user profile based on images captured by the device.

20. The method according to Claim 16 further comprising detecting a content type of the captured image.

21. A system for suggesting local photo opportunities, comprising:  
an interface module configured for receiving a geographical location of a camera device;

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a storage module configured for storing a user profile wherein the user profile includes at least one content type from a number of classification categories describing photographic interests of a user;

wherein said content type specifies the category, or kind, of photo opportunity in which the user is interested; and

a review module configured for providing at least one suggestion based on matching the content types within the user profile which expresses user interests and the content type of the photo opportunity for the geographical location of the camera device;

wherein said review module updates the user profile based on prior photographs captured by the user through said camera device.

22. The system according to Claim 21 wherein the interface module is configured for receiving a selection from the camera device wherein the selection is from at least one suggestion.

23. The system according to Claim 22 wherein the interface module is configured to transmit a detailed description to the camera device wherein the detailed description corresponds to the selection.

24. The system according to Claim 23 wherein the detailed description includes a sample image of the selection.

25. The system according to Claim 23 wherein the detailed description includes a description of the selection.

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26. The system according to Claim 23 wherein the detailed description includes directions to the selection based on the geographic location of the camera device.

27. The system according to Claim 22 wherein the storage module is configured to store a photo opportunity database that includes a plurality of photo opportunity listings wherein each listing is associated with a geographic area and a content type.

28. A computer-readable medium having computer executable instructions for performing a method of suggesting photo opportunities within a local area, comprising:

- sensing a user profile describing the photographic interests of a user as content types, selected from a number of content type categories;
- wherein said content type specifies the category, or kind, of photo opportunity in which the user is interested;
- determining a geographic location of a device;
- identifying a plurality of suggestions from a photo opportunity database based on the geographic location of the device and matching of the content type for prospective photo opportunities with the photographic interests of the user as represented by content types within said user profile, wherein each suggestion indicates a unique photo opportunity;
- transmitting the plurality of photo opportunity suggestions to the device;
- receiving a user selection from the device chosen from the plurality of suggestions which match user interests as defined by user selected content types in said user profile; and
- transmitting additional information to the user regarding the selected photo opportunity, corresponding to the selection, to the device.



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29. The method according to Claim 1 further comprising comparing the captured image with a stored sample image by executing image recognition and comparison algorithms to determine a match between the captured image and the sample image exists to associate information from the sample image to the captured image.

30. The method according to Claim 29 further comprising adding content type or descriptive text from the sample image to the captured image in response to said sufficient level of matching being detected.

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### **EVIDENCE APPENDIX**

Not Applicable. No additional evidence is relied upon in the present Appeal.

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**RELATED PROCEEDINGS APPENDIX**

Not Applicable. No related proceedings are pending and no decisions have been rendered by a court or the Board of Appeals relating to the present Appeal.